

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
MIDLAND-ODESSA DIVISION**

BRITTANY GILLIAM,

Plaintiff,

v.

**PEERLESS TYRE CO.
(INDIVIDUALLY AND D/B/A
PEERLESS TIRES 4 LESS),**

Defendant.

§
§
§
§
§
§
§
§
§
§

Case No. 7:20-cv-00275

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant Peerless Tyre Co. d/b/a Peerless Tires 4 Less (“Peerless”) hereby removes this action from the 385th District Court, Midland County, Texas, to the United States District Court for the Western District of Texas.

STATE COURT LAWSUIT

1. This case involves a Texas citizen and resident, Plaintiff Brittany Gilliam, whose minor child was allegedly injured at a Peerless store in Midland. On 10-27-20, Plaintiff filed suit against Peerless in the 385th District Court, Midland County, Texas, Cause No. CV57148, claiming that her child’s injuries were caused by Peerless’s alleged negligence.

2. Peerless now removes this case to this Court based on diversity jurisdiction.

GROUND FOR REMOVAL

3. This action is removable pursuant to 28 U.S.C. § 1441. As set forth herein, this Court has original diversity jurisdiction over this action pursuant to 28 U.S.C. § 1332(a)(1) because this action is between citizens of different states, and the amount in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.

4. Minimal Diversity Requirement. As alleged in the State Petition, attached hereto, this action is between citizens of different states. Upon information and belief, including the representation of Plaintiff's counsel and the site of the alleged incident, Plaintiff is an adult citizen and resident of Texas. **Exhibit A**, Plaintiff's Original Petition. Peerless is a citizen of a foreign state. Specifically, Peerless is a Colorado corporation with its principal place of business located at 5000 Kingston St., Denver, CO 80239. Consequently, complete diversity exists because Plaintiff is a citizen of Texas, and Peerless is a citizen of Colorado.

5. Amount in Controversy Requirement. The amount in controversy in this action exceeds the sum or value of \$75,000, exclusive of interest and costs. Plaintiff seeks "monetary relief over \$200,000.00 but not more than \$1,000,000.00." **Exhibit A** at ¶ 5.

PROCEDURAL REQUIREMENTS

6. Timeliness of Removal. This Notice of Removal is timely because it is being filed within 30 days of Peerless receiving, through service or otherwise, a copy of the Plaintiff's Original Petition. 28 U.S.C. § 1446(b)(1). Peerless was served through its registered agent, CT Corporation System, on 11-06-20.

7. Removal to Proper Court. This Court is the appropriate court to which this action must be removed because it is part of the district and division within which this action is pending, namely, Midland County, Texas. 28 U.S.C. §§ 1441(a), 1446(a).

8. Filing and Service. As required by 28 U.S.C. § 1446(d), a copy of this Notice of Removal will be contemporaneously filed in the 385th Judicial District Court and served on all counsel of record.

9. Pleadings and Process. Peerless has not been served with any process, pleadings, or orders in this action other than the Citation and Plaintiff's Original Petition. *See* 28 U.S.C. § 1446(a).

Respectfully submitted,

**WATSON, CARAWAY,
MIDKIFF & LUNINGHAM, LLP**

/s/ James W. Watson
James W. Watson
State Bar No. 20943100
jwatson@watsoncaraway.com
The Fort Worth Club Building
306 W. 7th Street, Suite 200
Fort Worth, Texas 76102
817/870-1717
817/338-4842 (FAX)
**ATTORNEYS FOR DEFENDANT
PEERLESS TYRE CO.**

CERTIFICATE OF SERVICE

The undersigned hereby certifies on this 4th day of December, 2020, that a true and correct copy of the foregoing document was served via e-mail on all parties in accordance with the Federal Rules of Civil Procedure.

/s/ James W. Watson
James W. Watson